

**BEFORE the HEARING EXAMINER for the  
CITY of SAMMAMISH**

**DECISION**

**RECEIVED**

**FILE NUMBER:** SSDP2019-00378

**APPLICANT:** Deryl W. Eastman  
15544 169th Street  
Renton, WA 98058

**JUN 22 2020**

**CITY OF SAMMAMISH**

**TYPE OF CASE:** Shoreline Substantial Development Permit to construct a 699 square foot, fully grated, private shared/joint-use dock with two associated free-standing boat lifts in Lake Sammamish

**STAFF RECOMMENDATION:** Approve subject to conditions

**EXAMINER DECISION:** DENY

**DATE OF DECISION:** June 17, 2020

**INTRODUCTION <sup>1</sup>**

Deryl W. Eastman ("Eastman" <sup>2</sup>) seeks approval of a Shoreline Management Act ("SMA") Substantial Development Permit ("SSDP") to construct a 699 square foot ("SF"), fully grated, private shared/joint-use dock <sup>3</sup> with two associated free-standing boat lifts in Lake Sammamish.

Eastman filed a Shoreline Substantial Development Land Use Application on July 25, 2019. (Exhibits 1, p. 2; 2 <sup>4</sup>) The Sammamish Department of Community Development ("Department") deemed the application to be complete on October 16, 2019. (Exhibit 26) The Department issued a Notice of Application on November 7, 2019. (Exhibit 26)

---

<sup>1</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.  
<sup>2</sup> The application lists Deryl Eastman as the applicant. (Exhibit 2, PDF p. 2) James Eastman, Deryl's brother, testified for his brother during the hearing and filed the post-hearing response. (Exhibit 29; and testimony) Since, based on the hearing record, their positions are the same with respect to this application, the Examiner will not distinguish between them when attributing testimony or written materials: Both will be referred to as "Eastman."  
<sup>3</sup> "'Dock' means a fixed or floating platform structure anchored in and/or floating upon a water body and connected to land to provide moorage or landing for waterborne vessels and/or water-dependent recreation uses." [SMC 25.02.010(29)]  
<sup>4</sup> Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner's Decision is based upon all documents in the record. Most of the exhibits were provided to the Examiner electronically as PDF documents. Citations to pages in those documents will use the PDF page number without regard to any original document pagination.

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 2 of 19

The subject property is located at 32XX East Lake Sammamish Parkway NE (“Parkway”) between the east shoreline of Lake Sammamish and the East Lake Sammamish Trail (“ELST”).<sup>5</sup>

The subject property is located in Section 20, Township 25 N, Range 6 E, Willamette Meridian and is further identified as King County Assessor’s Parcel 2025069091 (“Parcel 9091”). (Exhibit 2, PDF p. 2)

The Sammamish Hearing Examiner (“Examiner”) viewed Parcel 9091 on May 23, 2020.

The Examiner held a remote open record hearing on May 29, 2020.<sup>6</sup> The Department gave notice of the hearing as required by the Sammamish Municipal Code (“SMC”). (Exhibit 23)

Subsection 20.05.100(1) SMC requires that decisions on SSDPs be issued within 120 net review days after the application is found to be complete. The open record hearing was held after net review day 120. (Testimony) The SMC provides two potential remedies for an untimely decision: A time extension mutually agreed upon by the City and the applicant [SMC 20.05.100(2)] or written notice from the Department explaining why the deadline was not met [SMC 20.05.100(4)]. Eastman chose to extend the deadline. (Testimony)

The following exhibits were entered into the hearing record during the hearing:

Exhibits 1 - 26: As enumerated in Exhibit 1, the Departmental Staff Report

Documents and testimony presented during the hearing refer to an easement which encumbers Parcel 9091. Eastman had not submitted a copy of that easement prior to or during the hearing. The Examiner believed that the record should include a copy of that easement. Therefore, the Examiner left the hearing record open through June 15, 2020, with a copy of the easement to be submitted by June 8<sup>th</sup>, allowing one week for submittal of any responses to the easement by hearing attendees.<sup>7</sup> The following documents were submitted during that period:

Exhibit 27: Easement bearing King County Recorder’s Number 20050415003336, submitted June 1, 2020

Exhibit 28: Documents referred to by Aurora Merchant (“Merchant”) during her hearing testimony, submitted June 1, 2020<sup>8</sup>

---

<sup>5</sup> For simplicity of directional referencing, the lake shoreline, the ELST, and the Parkway will all be assumed to lie along a north-south axis.

<sup>6</sup> The hearing was conducted remotely using the “GoToMeeting” program due to assembly restrictions attendant to the current COVID-19 pandemic.

<sup>7</sup> One non-responsive comment was submitted during the response period: The sender was not an attendee at the hearing; the comment did not pertain to the easement. That comment was neither admitted nor considered.

<sup>8</sup> The Examiner did not expressly leave the record open for this document. It is, however, just a copy of documents referred to by Merchant during her testimony and a summary of her testimony. The Examiner finds and concludes that having a written copy of that material in the record makes her testimony easier to follow. Had the hearing been able to be conducted in person, the Examiner would have seen Merchant referring to documents during her testimony and would

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 3 of 19

- Exhibit 29: Comments from James Eastman regarding the easement, filed June 15, 2020, at 8:14 a.m., including Exhibits 1 – 6 to be cited as Exhibits 29.1 – 29.6
- Exhibit 30: Comments from Aurora Merchant regarding the easement, filed June 15, 2020, at 2:24 p.m.

The hearing record closed on June 15, 2020, at 5:00 p.m.

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner's knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

**FINDINGS OF FACT**

1. Eastman proposes to construct a shared/joint-use dock in Lake Sammamish in front of Parcel 9091. The proposed dock will have an area of 699 square feet ("SF"), extend into the lake approximately 80 feet beyond the ordinary high water mark ("OHWM"), and be built with ACZA treated timbers on 48 galvanized steel piles. The dock will be 4 feet wide with six ells at right angles to the central dock, three on the north side and three on the south side. Each of the ells will be 23 feet long. The two outboard ells will be 3 feet wide; the four inboard ells will be 2 feet wide. Each pair of ells will be separated by slightly more than 21 feet. The dock surface will be fully grated (47% open space), and the dock will maintain well more than 15 feet of setback from the north and south property lines extended. Eastman has designed the dock to accommodate 10 free-standing boat lifts, although only approval for two boat lifts is currently depicted on the submitted site plans. The application does not request approval for covered boat lifts. (Exhibits 7; 15; 24)
2. Lake Sammamish and shorelands<sup>9</sup> within 200 feet of the lake's OHWM are within the jurisdictional area of the SMA. [SMC 25.02.010(77) and (80)] Lake Sammamish is a designated Shoreline of Statewide Significance under the SMA. [SMC 25.05.030] The City's Shoreline Master Program ("SMP") designates the subject property Urban Conservancy. [SMC 25.05.020(3), Appendix A] Uses that are proposed waterward of the OHWM are "governed by the regulations pertaining to the adjoining shoreland area and all such uses shall be considered accessory to the primary use." [SMC 25.05.010(2)] Private docks, floats, and mooring buoys are permitted uses in all SMA jurisdictional areas within the City. [SMC 25.07.010, Table 25.07.010-1] An SSDP is required because the estimated cost of the proposed dock and boat lift exceeds the established dollar threshold requiring a permit. (Exhibit 7)

---

have asked (as he always does in like situations) if she would be willing to submit into the record the documents she was using.

<sup>9</sup> "'Shorelands,' also referred to as 'shoreland areas,' means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters that are subject to the provisions of this program; the same to be designated as to location by the Department of Ecology (RCW 90.58.030)." [SMC 25.02.010(77)]

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 4 of 19

3. The SMP regulations governing private docks located in Lake Sammamish are contained in SMC 25.07.050(1) and (2). Subsection (1) contains regulations applicable to all docks within the City; Subsection (2) contains additional regulations specific to docks located within Lake Sammamish. Compliance with the regulations in Subsection (1) is not at issue: Eastman's proposed dock complies with all applicable regulations in that subsection.

Compliance with the regulations in Subsection (2) is at issue. Since interpretation of some of those regulations is fundamental to this Decision, the complete text of Subsection (2) is included as an Appendix.

4. Parcel 9091 is a remnant parcel sandwiched between the east shore of Lake Sammamish and the west edge of the 100-foot wide ELST right-of-way.<sup>10</sup> The ELST right-of-way abuts the west edge of the Parkway's 60-foot wide right-of-way. (Exhibit 25) The ELST developed cross section is about 18 - 20 feet wide<sup>11</sup> and sits atop an abandoned single-track railroad bed which is in turn generally centered within the ELST right-of-way. [Official notice<sup>12</sup>] That physical relationship is apparent in the vicinity of Parcel 9091. (Exhibit 1, PDF p. 1, Figure 1) Based on a 100-foot wide ELST right-of-way and a 20-foot wide trail centered within the right-of-way (50 feet of right-of-way and 10 feet of trail on each side of centerline), the distance between the west edge of the trail cross section and the west edge of the ELST right-of-way would be 40 feet ( $50' - 10' = 40'$ ).<sup>13</sup> The ability of an owner of property abutting the ELST right-of-way to make private use of that right-of-way is subject to regulation by King County, the entity which controls the ELST right-of-way.<sup>14</sup> King County requires a Special Use Permit before private use of a portion of the ELST right-of-way may occur. [Official notice]

---

<sup>10</sup> With the exception of those dimensions and distances called out on Exhibits 15, 20, and 24, other graphic documents in the record do not contain a scale or specific dimensions. The copies of Exhibits 15, 20, and 24 provided to the Examiner are neither at original scale nor at a standard reduction of the original scale. Therefore, except for the called-out dimensions on Exhibits 15, 20, and 24, the Examiner has calculated dimensions based on a ratio of the unknown distance to a known distance on an exhibit. For example, the stated 100-foot width of the ELST right-of-way was calculated using Exhibit 25 and the known north-south dimension of Parcel 9091 (124.32 feet as stated on Exhibit 20) and the depicted width of the ELST right-of-way.

<sup>11</sup> The ELST cross-section requested by King County and approved for construction is 18 feet wide: "12 feet of travel surface plus a two-foot shoulder and one-foot clear zone on each side". [Official notice: Hearing Examiner February 5, 2018, Decision in SSDP-00414, p. 4, Finding of Fact A.3] The Examiner will round that cross-section width off to 20 feet for purposes of the discussion in this Decision. If the actual narrower trail width were used, then the portion of the ELST right-of-way beyond the edge of the actual trail would be even wider than stated herein.

<sup>12</sup> The Examiner has heard a number of land use applications involving the ELST in his tenure as Sammamish Hearing Examiner. In the course of that work he has been provided with numerous ELST development plans. The statements in this sentence are based on his professional knowledge of the content of those applications.

<sup>13</sup> Eastman said that he thought the ELST right-of-way extended about 20 feet beyond the physical trail. (Testimony) The evidence in the record does not support that perception.

<sup>14</sup> Eastman stated that he is aware that he has no right to use the ELST right-of-way. (Testimony)

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 5 of 19

5. Parcel 9091 has a north-south dimension of 124.32 feet (roughly 124 feet) according to a professional survey. (Exhibit 20) The depth of Parcel 9091, measured from the OHWM to the west edge of the ELST right-of-way, varies tremendously: At the south line of the parcel it is about 24 feet; about 19 feet to the north it has shrunk to about 18 feet; at about 55 feet north of the south property line (at the location of a major tree along the shoreline) it is at its widest, about 27 feet; at about 74 feet north of the south property line it has shrunk to about 5 feet; and at the north property line it is about 3 feet.<sup>15</sup> (Exhibit 15)
6. In 2005 a previous owner of Parcel 9091 granted “a perpetual, exclusive, undivided recreational easement on, over, through, and across the northern 40 feet of” Parcel 9091 (the “2005 Easement”). The 2005 Easement benefits the owners of four parcels located a short distance north of Parcel 9091 on the east side of the Parkway (the “Easement Parcels”). (Exhibit 27) Merchant asserts that Parcel 9091 and the Easement Parcels are tied together through covenants recorded in conjunction with a short subdivision which created the four Easement Parcels. (Exhibit 30, p. 2)  
  
Benefits granted by the easement include, “but [are] not limited to, ingress and egress, floating and/or stationary docks, moorage buoys, and storage of recreational equipment.” The easement runs with the title to the four Easement Parcels. (Exhibit 27)
7. Eastman purchased Parcel 9091 in 2017. (Testimony)
8. On or about April 25, 2019, Eastman had a pre-application meeting with the Department to discuss a “proposal ... to construct a shared dock on Lake Sammamish along with 10 boatlifts for at least 11 parcels to share (possible up to 15). It is unclear where these parcels are located and whether these parcels are associated with waterfront property.” (Exhibit 3, PDF p. 6) Planning informed Eastman that he needed to provide four items regarding the proposed use, including evidence that the title reports for the 11 user parcels legally tied them to Parcel 9091.

If the listed items can be met, the proposal can be processed as a “boating facilities” under a shoreline substantial development process.

If the listed items cannot be met, the proposal may be processed as a “beach club” under a shoreline conditional use permit, in addition to a shoreline substantial development permit process.

(Exhibit 3, PDF pp. 6 & 7) On April 26, 2019, the Department advised Eastman’s dock designer “that the shared use dock has to be associated with existing ‘established’ single family residences. In other words, a vacant lot cannot be associated with the shared use dock.” (Exhibit 4, PDF p. 1)

---

<sup>15</sup> The reader will note that Exhibit 15 (or 24) depicts two “shorelines”: The OHWM and the water line on May 1, 2019. It is the OHWM which has regulatory relevance.

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 6 of 19

9. On June 18, 2019 Eastman recorded a Joint Use Agreement (the “First JUA”). The Grantor of the First JUA was Eastman; the Grantees were Eastman and two Limited Liability Corporations (“LLCs”), CLMN Holdings LLC and Suncadia Ventures LLC, for both of which Eastman is the Managing Member. In other words, the First JUA was essentially by and between Eastman and Eastman-controlled entities. The First JUA granted “the Lot Owners and their tenants” of 10 enumerated lots the right to use Parcel 9091 and its dock for recreational purposes. (The location of the 10 benefitted lots is not disclosed in the record. Given the testimony and evidence in the record it is reasonably safe to say that none front on Lake Sammamish nor are they contiguous to one another.) It provided that any person residing on one of the benefitted lots could use the dock, that tenants could only use the dock during their period of tenancy, and that a non-resident owner could not use the dock during his/her non-residency. The First JUA “shall run with the land.” (Exhibit 16, quotes from PDF p. 2)

The First JUA also provided that the owners of the Easement Parcels (referred to in the First JUA as the “Easement Owners”<sup>16</sup>) could use a future dock if its area exceeded 675 SF. The First JUA states that the developer (Eastman) may develop rules governing the Easement Owners’ usage of the dock and provides that agreements may be entered into governing transfer of dock use rights between Easement Owners and Lot Owners. (Exhibit 16, quotes from PDF pp. 2 & 3)

In his post-hearing comments Eastman stated that “[i]n exchange for keeping a navigable path to the Eastman dock open, the [Easement Owners] will be provided one permanent moorage space plus one additional space for intermittent use.” (Exhibit 29, unnumbered p. 1) That provision is not stated in the First JUA.

10. On July 25, 2019, Eastman submitted the subject application. The narrative accompanying the application stated that the proposal was “to build a new community pier to accommodate ten (10) homeowners and ten (10) boatlifts. Install two (2) freestanding boatlifts at this time.” (Exhibit 7)
11. On August 22, 2019, the Department informed Eastman that his application was incomplete.

According to the pre-application conference notes, the proposed shared use dock shall be associated with existing single-family homes. The SMP-Guidelines and the City’s SMP characterize “docks” as a “shoreline modification” subordinate to single family residential use. Without having existing single-family homes established, the propose dock cannot be considered as “boating facilities” under a SSDP process. Otherwise, the proposal may be processed as a “beach club” under a shoreline conditional use permit, in addition to a SSDP process.

(Exhibit 14, PDF p. 1)

---

<sup>16</sup> The “Easement Owners” are not owners of Parcel 9091 in the legal sense. They have only an easement right over the north 40 feet of Parcel 9091. They are the dominant tenant over that 40-foot wide strip, but they are not owners of any portion of Parcel 9091.

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 7 of 19

12. On September 25, 2019, Eastman executed a second JUA (the “Second JUA”). The Second JUA has never been recorded. The Second JUA reduced the number of benefitted lots from 10 to four, three of which were among the 10 benefitted lots in the First JUA, one of which was a new lot. The Second JUA omitted any reference to the Easement Parcels’ rights to the dock by virtue of the 2005 Easement. The Second JUA also runs with the land. The Second JUA was executed by Eastman on behalf of himself and CLMN Holdings LLC and Suncadia Ventures LLC. (Exhibit 18)
13. Eastman testified that he reduced the number of lots in the Second JUA to comport with the Department’s position that only lots currently containing residences could be included in a shared/joint-use dock arrangement. The four lots listed in the Second JUA are the only ones owned by Eastman and the two LLCs which currently have residences on them. Eastman said his intent is to revise the JUA each time a house is built on one of the currently vacant lots benefitted by the First JUA. (Testimony)
14. The location of the four lots benefitted by the Second JUA is depicted graphically on Exhibit 1, PDF p. 4, Figure 3. Eastman asserts that all four are within one-half mile of Parcel 9091. (Exhibit 29, unnumbered p. 2; and testimony) Merchant testified that they were up to a mile from Parcel 9091. Using Google Earth’s “Path” measurement tool, the Examiner measured the street distance (not the straight line “as-the-bird-flies” distance) from the center point of each lot’s street frontage along the shortest public street route to the east edge of Parcel 9091. The distances thus measured are: 19725 NE 42<sup>nd</sup> Way = 0.8 miles; 3620 196<sup>th</sup> Avenue NE = 0.5 miles; 3636 E Lake Sammamish Parkway = 0.3 miles; and 3206 E Lake Sammamish Parkway = 0.1 miles.
15. On October 16, 2019, Eastman submitted a revised project narrative which stated that the dock was “designed to accommodate the installation of 8 boat lifts of which 1 will be permitted for as part of the application.” (Exhibit 17) Eastman also submitted the Second JUA at that time. (*Ibid.*) The Department deemed Eastman’s application complete as of those submittals. (Exhibit 26)

Eastman’s project description (1 boat lift at this time) does not fully comport with his submitted site plans (2 boat lifts depicted) or the Department’s project description in Exhibit 1 (2 boat lifts). Neither Eastman’s project description nor the Department’s project description account for the Easement Parcels’ right to use the proposed dock which will be triggered because the proposed dock area will be larger than the 675 SF threshold for their usage rights.

16. Eastman and the Department disagree on where the dock should be located along Parcel 9091’s lake frontage. Eastman wants the dock located just south of the large tree on the frontage’s central promontory. (Exhibit 15) The Department wants the dock centered on the promontory. (Exhibit 24) The Department’s position is based on its interpretation of SMC 25.07.050(2)(f) which requires that “[e]lls, fingers and deck platforms can be no closer than 30 feet waterward of the ordinary high water mark.” (See Appendix hereto.) The Department argues that Eastman (in Exhibit 15) wants “the 30-

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 8 of 19

foot distance, from the OHWM to the first ell of the dock, [to] be measured in a manner that is not perpendicular from the undulating line of the OHWM". (Exhibit 1, PDF p. 5)

17. The SMP requires establishment of a Vegetation Enhancement Area ("VEA") along a property's shoreline whenever a project will disturb uplands within the established SMA setback area. [SMC 25.06.020(10) {Lake Sammamish} and (13) {Beaver and Pine lakes}] As long as the dock would not disturb any upland area, no VEA would be required. (Exhibit 1, PDF p. 5)
18. Sammamish's State Environmental Policy Act ("SEPA") Responsible Official issued a threshold Determination of Nonsignificance ("DNS") for the Eastman dock project on March 18, 2020. (Exhibit 22) The DNS was not appealed. (Testimony)
19. The Department recommends approval of the SSDP as reflected in Exhibit 24 subject to six conditions. The Department revised Recommended Condition 3 during the hearing to make clear that it is recommending approval of the plans as depicted on Exhibit 24, not Exhibit 15. (Exhibit 1, PDF pp. 7 & 8)
20. Eastman has no objection to the Departmental Staff Report or its recommended conditions except that he wants Exhibit 15 designated as the approved development plans. (Testimony)
21. Two citizens with ownership interest in the abutting lots to the south and north (Sanders and Goldbloom) asserted that Eastman makes at least some of the residences he controls available for Airbnb use. Both are also concerned about the amount of boat traffic that would be generated in this small area. Both are also concerned about inadequate parking on Parcel 9091. (Exhibit 21, PDF p. 2; and testimony)

In his post-hearing comments, Eastman describes the Airbnb assertions as "utter nonsense." He states that the Eastmans have never operated Airbnb's, "but rather have long term tenants in their homes". He states further "that the dock and beach area can only be used by residences [*sic*] of the 4 homes on the application". (Exhibit 29, unnumbered pp. 1 & 2) That statement is not entirely consistent with the text of the First JUA. (Exhibit 16) The Second JUA does not mention the Easement Parcels or Owners. (Exhibit 18)

Merchant, who also has an ownership interest in a nearby waterfront property, objects the the fact that there is no residence on Parcel 9091 with which the proposed dock would be associated. She points to RCW 79.105.430 and WAC 332-30-144(2)(a) for the proposition that a dock cannot be constructed in front of a parcel which does not contain a residence. (Testimony)

Chapter 79.105 RCW, Aquatic Lands – General, is within Title 79 RCW, Public lands. Chapter 79.105 RCW essentially establishes a process by which a person may lease or rent state-owned aquatic lands. The beds of navigable waters are included in the definition of aquatic lands. [RCW 79.105.060(1)] Lake Sammamish is a navigable water body; its bed is owned by the State. The State



HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 9 of 19

Department of Natural Resources (“DNR”) is the state agency with responsibility and authority to control the use of state-owned aquatic lands. Generally speaking, Chapter 79.105 RCW provides that any use of state-owned aquatic lands must be by rent or lease. Section 79.105.430 RCW establishes an exception to the rent or lease requirement for the

abutting residential owner to state-owned ... beds of navigable waters, other than harbor areas, [to] install and maintain without charge a dock on the areas if used exclusively for private recreational purposes and the area is not subject to prior rights, .... The dock cannot be sold or leased separately from the upland residence. The dock cannot be used to moor boats for commercial or [live-aboard] residential use. This permission is subject to applicable local, state, and federal rules and regulations governing location, design, construction, size, and length of the dock. Nothing in this subsection (1) prevents the abutting owner from obtaining a lease if otherwise provided by law.

[Emphasis added] The “abutting residential owner” requirement serves to limit the applicability of the rent-free/no-lease provision to only persons who reside on the abutting land. It does not limit construction of all docks on state-owned beds of navigable waters to only abutting owners with a residence on their shoreline property. Owners of shoreline properties without residences would simply not benefit from the exception and would have to go through the rent/lease process.

Section 332-30-144 WAC contains the DNR-adopted rules to implement RCW 79.105.430. Its opening subsection clearly states the above construct:

This section implements the permission created by RCW 79.105.430, Private recreational docks, which allows abutting residential owners, under certain circumstances, to install private recreational docks without charge. The limitations set forth in this section apply only to use of state-owned aquatic lands for private recreational docks under RCW 79.105.430. No restriction or regulation of other types of uses on aquatic lands is provided. ...

[WAC 332-30-144(1), emphasis added] Neither the RCW nor the WAC have any relevance to the Eastman dock SSDP application. Since Eastman would not qualify for the exemption, he would be subject to DNR regulations regarding rental or lease of state-owned bed lands if an SSDP is granted.

Merchant also argues that Eastman’s proposal is too intense for the small size of Parcel 9091, especially considering lack of parking and restroom facilities. (Exhibit 30, p. 3)

22. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

## **LEGAL FRAMEWORK <sup>17</sup>**

The Examiner is legally required to decide this case within the framework created by the following principles:

### **Authority**

An SSDP is a Type 4 procedure. A Type 4 land use application requires an open record hearing before the Examiner. The Examiner makes a final decision on Type IV applications which is subject to the right of reconsideration and appeal to the State Shorelines Hearings Board. [SMC 20.05.020, 20.10.240, 20.10.260, and 25.35.080(1)]

The Examiner's decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications, and restrictions as the Examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including Chapter 43.21C RCW and the regulations, policies, objectives, and goals of the interim comprehensive plan or neighborhood plans, the development code, the subdivision code, and other official laws, policies and objectives of the City of Sammamish.

[SMC 20.10.070(2)]

### **Review Criteria**

Section 20.10.200 SMC sets forth requirements applicable to all Examiner Decisions:

When the examiner renders a decision ..., he or she shall make and enter findings of fact and conclusions from the record that support the decision, said findings and conclusions shall set forth and demonstrate the manner in which the decision ... is consistent with, carries out, and helps implement applicable state laws and regulations and the regulations, policies, objectives, and goals of the interim comprehensive plan, the development code, and other official laws, policies, and objectives of the City of Sammamish, and that the recommendation or decision will not be unreasonably incompatible with or detrimental to affected properties and the general public.

Subsection 25.08.020(2) SMC requires that a proposed Substantial Development be "consistent with the policies and procedures of Chapter 90.58 RCW, the provisions of Chapter 173-27 WAC, and [the City of Sammamish Shoreline Master Program]."

### **Vested Rights**

Sammamish has enacted a vested rights provision.

---

<sup>17</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

## HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 11 of 19

Applications for Type 1, 2, 3 and 4 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all the requirements of this chapter. The department's issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

[SMC 20.05.070(1)] Therefore, this application is vested to the development regulations as they existed on October 16, 2019.

### Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [SMC 25.08.050(4) and City of Sammamish Hearing Examiner Rule of Procedure 316(a)]

### Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

## CONCLUSIONS OF LAW

1. The Examiner has heard five shared/joint-use dock cases during the past four or so years.<sup>18</sup> Two were appeals of SSDPs granted by the Department under prior processing procedures which the Examiner dismissed for lack of jurisdiction under the then regulations. [SSDP2015-00274 and SSDP2015-00275; the Burnstead shared/joint-use docks; November 4, 2016 Order of Dismissal] One sought an SSDP to construct a shared/joint-use dock on the parcel abutting Parcel 9091 to the north to serve six lots in a development on the east side of the Parkway. [SSDP2016-00416; TJ Square; November 21, 2017] One sought a Shoreline Variance and an SSDP to add six boat lifts to an existing six-slip shared/joint-use dock. The dock parcel fronted on Lake Sammamish; the six user parcels abutted one another across the ELST from the dock parcel. All the parcels were part of the Lake Sammamish Estates Homeowners Association ("LSEHOA"). [SVAR2018-00724 & SSDP2018-0014; Merrin for LSEHOA; June 20, 2019 Decision] The final one sought an SSDP for a shared/joint-use dock to be used by four abutting lots on the east side of the Parkway, each of which

---

<sup>18</sup> The undersigned has been Sammamish's Examiner for the last 18± years. However, prior to the enactment of Ordinance No. 2016-410 and its subsequent approval by the Washington State Department of Ecology, SSDP applications were classified by the City as Type 2. Type 2 applications are administrative, not quasi-judicial proceedings, generally subject to the right of appeal to the Examiner. On May 18, 2016, the State Shorelines Hearings Board ("SHB") "conclude[d] that the Examiner lacked jurisdiction to review [the City's administrative decision on a Type 2] SSDP [application filed by King County]". [SHB No. 15-012c, Order Granting Partial Summary Judgment to King County, p. 10, ll. 9 and 10] When Ordinance No. 2016-410 became effective, SSDPs joined Shoreline Variances and Shoreline Conditional Use Permits as Type 4 applications. The Examiner has original jurisdiction over Type 4 applications. Thus, the Examiner has only heard SSDP applications for the City for about the last four years.

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 12 of 19

shared a fractional ownership of the dock parcel. [SSDP2017-00383; Templeman; September 12, 2019] In those cases the Examiner applied, without deciding, the SMP regulations as interpreted by the Department.

2. No shared-use dock application heard by the Examiner has presented a set of circumstances remotely akin to those presented in the Eastman application. The truly unique nature of this application and the dispute over its compliance with the SMP requires the Examiner to independently evaluate the SMP regulations for private recreational docks to determine exactly what they allow. Such an evaluation involves statutory construction.

City ordinances are subject to the same rules of interpretation and construction as apply to statutes. [*Tahoma Audubon Soc. v. Park Junction Partners*, 128 Wn. App. 671, 116 P.3d 1046 (2005); *Neighbors v. King County*, 88 Wn. App. 773, 778, 946 P.2d 1188 (1997)] Courts, and by extension quasi-judicial decision makers, “do not construe a statute that is clear and unambiguous on its face. We assume that the legislature means exactly what it says, and we give words their plain and ordinary meaning. Statutes are construed as a whole, to give effect to all language and to harmonize all provisions.” [*Ockerman v. King Cy.*, 102 Wn. App. 212, \_\_\_ P.2<sup>nd</sup> \_\_\_ (Div. I, 2000); see also: *Western Petroleum v. Freidt*, 127 Wn.2d 420, 424, 899 P.2d 792 (1995), holding that intent is relevant only if ambiguity exists in the language of the code; *State v. Azpitarte*, 140 Wn.2d 138, 141, 995 P.2d 31 (2000), holding that clear and unambiguous codes are not subject to judicial construction] Legislative history cannot override an unambiguous code provision. [*Kirtley v. State*, 49 Wn. App. 894, 898, 748 P.2d 1148 (1987)]

“[D]eference is accorded an agency’s interpretation only if (1) the particular agency is charged with the administration and enforcement of the statute, (2) the statute is ambiguous, and (3) the statute falls within the agency’s special expertise.” [*Bostain v. Food Exp., Inc.*, 159 Wn.2d 700, 716, 153 P.3d 846 (2007)] “[A]n agency interpretation that conflicts with a statute is given no deference.” [*Nelson v. Appleway Chevrolet, Inc.*, 160 Wn.2d 173, 184, 157 P.3d 847 (2007)] An agency interpretation or agency policy cannot work to effectively “amend” an ordinance or apply it in a manner that clearly exceeds its intended scope. [*Mall, Inc. v. City of Seattle*, 108 Wn.2d 369, 378, 739 P.2d 668 (1987)]

3. The portion of the SMC which is critical to the outcome of this case is SMC 25.07.050(2), the SMP’s regulations for docks in Lake Sammamish. Those regulations “apply to all new private docks, floats, and lifts on Lake Sammamish, including shared/joint-use facilities and beach club facilities.” [SMC 25.07.050(2)] The full text of that code subsection is provided in the Appendix hereto.<sup>19</sup>

---

<sup>19</sup> “‘Beach club’ means a private waterfront lot owned in common by two or more individuals/entities for purposes of providing shared recreational beach access for the exclusive use of the property owners.” [SMC 25.02.010(8)] This definition has no requirement for owner contiguity or owners living on the Lake.

The City amended the SMP’s provisions regarding “beach clubs” effective May 25, 2020. (Exhibit 29.6) Among other changes, the amendments change “beach club” to “private beach park”. (Exhibits 29, unnumbered p. 3; 29.6) The amended provisions may not be considered in the review of Eastman’s application as they became effective subsequent to

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 13 of 19

4. The regulations in Subsection (2) apply to single-use docks, shared/joint-use docks, and docks associated with beach clubs. Subsection (2) is divided into eight further subsections, (a) – (i). Subsections (a) – (c) specify what facilities are allowed under each of three different situations. Subsection (d) establishes a maximum over-water coverage limit for each of those three situations. Subsections (e) – (i) establish dimensional standards for all docks subject to SMC 25.07.050(2).

The different situations in which the Subsection (2) regulations can apply must be considered when interpreting the subsection. It is the provisions of Subsections (a) – (d) which are most critical to the outcome of the Eastman application.

5. Subsection (a) pertains to “[e]ach individual residential lot on Lake Sammamish”. Subsection (a) has no applicability to beach clubs. Subsection (b) pertains to “contiguous lots using shared/joint-use docks”. It, too, has no applicability to beach clubs since it specifically refers to “contiguous lots.” And Subsection (c) pertains to “shared/joint-use for more than nine residential homes”. Subsection (c) could apply both to contiguous lots and to non-contiguous lots in a beach club.

In order to make the section internally consistent, Subsection (b) must be read to address shared/joint-use by two to nine contiguous lots. If Subsection (b) were read to apply only to two contiguous lots, then the regulation would have a huge gap: shared/joint-use by three to nine contiguous lots would be skipped. Yet, when one looks at Subsection (d), one finds that its three subsections set size limits for a dock serving one lot (Subsection (i)), two to nine lots (Subsection (ii)), and more than nine lots (Subsection (iii)). Given the content of Subsection (d), Subsection (b) must be read to apply to shared/joint-use by two to nine contiguous lots. Any other interpretation would not make sense.

6. Subsection (a) provides that “[e]ach individual residential lot on Lake Sammamish shall be allowed: one residential dock ....” What does “residential lot” mean? Is it a lot containing a residence? Or is it a vacant lot in an area zoned for residential use? If the latter, must it be of sufficient size to allow construction of a residence on it at some future time?

The Examiner concludes that a “residential lot” is a lot containing a residence. If the City Council had meant that the owner of a lot without a residence is entitled to construct a dock in the lake in front of the vacant lot, it would have said so. For example, it could have said “Each individual lot zoned for residential use, occupied or otherwise, on Lake Sammamish ....” Language such as that

---

the date that the application vested under City regulations. An applicant may not “pick and choose” to which regulations an application is to be vested: If an applicant wishes to take advantage of a newer, more favorable regulation, then a new application (or substantial revision of the original application) must be filed. [*East County Reclamation Co. v. Bjornsen*, 125 Wn. App. 432, 105 P.3d 94 (2005), rev. denied 155 Wn.2d 1005 (2005)]

All citations herein to SMC 25.07.050(2) are to the version to which this application is vested, not to the current code language.

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 14 of 19

would have clearly indicated that a lot did not have to have a residence on it to qualify for construction of a dock.

The “on Lake Sammamish” clause modifies “lot.” That clause means that the lot must have frontage on Lake Sammamish to qualify for construction of a dock. At least in the case of a single-use dock that is intuitively obvious: If your lot doesn’t front on the lake, you can’t build a dock in the lake.

The remainder of Subsection (a) limits what accoutrements may be associated with a dock for a residential lot: one float, two boat lifts, and two personal watercraft (“PWC”) lifts; four PWC lifts may be substituted for the two boat lifts and two PWC lifts.

7. Subsection (b) pertains to “Contiguous lots.” Contiguous means abutting: “being in actual contact : touching along a boundary or at a point”. [<https://www.merriam-webster.com/dictionary/contiguous>, last visited June 3, 2020] Thus, the lots that are going to benefit from a shared/joint-use dock under Subsection (b) must abut one another; they cannot be spread out.

Do all these contiguous lots have to be “on Lake Sammamish”? At least one of them must. To suggest that none of the contiguous lot owners have to own property on the lake makes absolutely no sense in the scheme that is represented by SMC 25.07.050(2). But it would be equally illogical to say that they all must front on the Lake. The notion of nine side-by-side lots along the lake shore sharing a single dock is ludicrous: The owners on the ends of the string of lots couldn’t get to the shared dock without crossing over up to four of their neighbors’ lots (assuming the dock was in the middle of the string of lots). Given the structure represented in Subsection (2), it only makes sense that at least some of the lots could be arranged in a “tandem” fashion – one behind the other. But they must be contiguous to one another and contiguous to the lot or contiguous lots fronting the lake.

Do these lots also have to be “residential lots”? The Examiner concludes that they do. It would make no sense to require a single-use dock to front a residential lot, while shared/joint-use docks would not have to. A shared ownership of the lot or lots fronting the lake would suffice even if the shared ownership parcel(s) on the lake did not contain a residence because the shared ownership lake shore parcel(s) would legally be a part of the residential lots sharing in its(their) ownership. If a group of persons who do not have contiguous lots want to share a dock, they must obtain a permit for a “beach club.” (See Conclusion of Law 12, below.)

Subsection (c) is even more loosely written: It pertains simply to “Lots”, not contiguous lots or residential lots. How should it be interpreted? This subsection appears to apply to beach clubs where the users/owners do not have to own a lot on the lake. Therefore, the “residential” and “contiguous” provisions of the preceding subsections do not apply.

8. Subsection (b) provides that a shared/joint-use dock serving two to nine contiguous lots “shall be allowed one additional boat lift and one additional personal watercraft lift or two additional personal watercraft lifts in addition to the allowances noted above for an individual lot.” Note that the adopted

HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 15 of 19

code does not say “one additional boat lift and one additional personal watercraft lift per additional user lot or two additional personal watercraft lifts per additional user lot in addition to the allowances noted above for an individual lot.” Nothing in Subsection (b) says that every user over one gets to add an additional boat lift and PWC lift to the shared/joint-use dock. Just one of each can be added, regardless of the number of contiguous sharing users. The wording would have to be vastly different if the City Council wanted to allow one additional boat lift and one additional PWC lift for every shared user.

9. Subsection (c) says that when more than nine lots are sharing a dock, they are entitled to “one additional dock for service of existing legally established launch ramps and rails ...”. This “one additional dock” is not one per additional residence, but one, period. And that additional dock is not for regular dock purposes. The one additional dock is only “for service of existing legally established launch ramps and rails”. The “launch ramps and rails” must be in existence before the additional dock permit is sought, and the additional dock must be specifically to support the ramp or rails. Nothing in Subsection (c) says that every user over nine gets to add an additional boat lift and PWC lift to the shared/joint-use dock. The wording would have to be vastly different if the City Council wanted to allow one additional boat lift and one additional PWC lift for every shared user.
10. The above analysis of the statutory construction of SMC 25.07.050(2) may not be fully consistent with every prior SSDP for a private dock approved by the undersigned. The Examiner does not go into a case “looking for trouble.” If code language is not challenged or does not obviously require interpretation to adjudicate a case, the Examiner tends to accept, without deciding, the interpretation embodied in the Department’s position. Eastman’s request is so different from anything previously considered that in-depth analysis of SMC 25.07.050(2) is required. To the extent this analysis conflicts with past decisions, this analysis supersedes the implied interpretations represented by those decisions. The Examiner will apply this analysis unless and until the code is changed or this Decision is overturned on appeal.
11. Eastman’s proposal is inconsistent with SMC 25.07.050(2) based upon the above statutory interpretation. Parcel 9091 is not a residential lot. Therefore, a dock is not authorized. The lots that he proposes to have share use of the proposed dock do not abut Parcel 9091 nor do they even abut one another. The lots that he proposes to have share use of the proposed dock do not have a shared ownership interest in Parcel 9091. The number of lots that might end up using the dock under his interpretation of the regulations could be 4, or 10, or 14, or more, plus the Easement Owners in some fashion.<sup>20</sup> He seems to think that he can just add users whenever he wants to by amending the JUA.

---

<sup>20</sup> Both the First JUA and Second JUA “run with the land.” That means that the rights granted by the JUAs apply to the property, not to the owner. Nothing in either JUA limits the number of residences on any of the benefitted lots to one. Thus, if a benefitted lot were to be subdivided, the JUA’s benefits would extend to each “child” lot created from the “parent” lot. The record does not disclose any particulars about the First JUA lots. It is clear from Exhibit 25 that at least one of the Second JUA lots is large enough to be theoretically eligible for division into some number of “child” lots. The R-4 zone allows a density of up to four lots per acre. Merchant testified that the 3620 196<sup>th</sup> lot contained about two acres. In fact, using the known width of the ELST right-of-way (100 feet) as a basis, it can be estimated from Exhibit 25 that that lot is roughly 687 feet square and contains roughly 10 acres. Whether that lot or any others subject to the JUAs could



HEARING EXAMINER DECISION

RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)

June 17, 2020

Page 16 of 19

An SSDP is issued for a specific proposal, not a proposal that the applicant/permittee may adjust whenever and however s/he wants. The number of boat lifts that he contemplates far exceeds the number allowed by current code. The proposal cannot be approved as presented for any or all of the above reasons.

12. Eastman is in reality proposing a “beach club” as defined in the vested-to SMP as embodied in the SMC, not a private shared use dock. The vested-to SMC currently defines the term “beach club” (See Footnote 19, above.) and uses it in only two places in the SMC: SMC 25.07.050(2) (quoted in Conclusion of Law 3, above) and in SMC 25.07.050(3) (containing parallel regulations for Pine Lake and Beaver Lake). “Beach club” is not a specifically listed use in vested-to SMC 25.07.010, Table 25.07.010-1: Permitted Uses. Uses not listed in the SMP are Shoreline Conditional Uses by state regulation. [WAC 173-27-160(3)] Eastman must apply for a Shoreline Conditional Use Permit (“SCUP”) if he wants to pursue his current proposal since the new, now applicable code classifies Private Beach Park as a SCUP. (Exhibit 29.6) What issues such an application would present and whether such an application would meet SCUP approval criteria are unknown.
13. A brief word is warranted about the dispute between Eastman and the Department regarding the location of the dock along the shoreline. If a dock is located such that it is not perpendicular to the shoreline (and that could happen for any number of reasons) then its maximum length must be measured from the OHWM along the longest side of the dock and the 30-foot minimum distance from the shore to the first ell must be measured separately for each side of the dock.
14. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

**DECISION**

Based upon the preceding Findings of Fact and Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner **DENIES** the requested Shoreline Substantial Development Permit to construct a 699 square foot, fully grated, private shared/joint-use dock with two associated free-standing boat lifts in Lake Sammamish.

Decision issued June 17, 2020.

  
John E. Galt  
Hearing Examiner

---

actually meet the strict slope protection regulations of the SMC to be further divided cannot be determined from this record.



**HEARING EXAMINER DECISION**

**RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)**

June 17, 2020

Page 17 of 19

**HEARING PARTICIPANTS <sup>21</sup>**

Gregory W. Ashley  
Steven Goldbloom  
Avril Baty  
Rick Martin

Jasvir Singh  
Aurora Merchant  
James Eastman

**NOTICE of RIGHT of RECONSIDERATION**

This Decision is final subject to the right of any party of record to file with the Examiner (in care of the City of Sammamish, ATTN: Lita Hachey, 801 228<sup>th</sup> Avenue SE, Sammamish, WA 98075) a written request for reconsideration within 10 calendar days following the issuance of this Decision in accordance with the procedures of SMC 20.10.260 and Hearing Examiner Rule of Procedure 504. Any request for reconsideration shall specify the error which forms the basis of the request. See SMC 20.10.260 and Hearing Examiner Rule of Procedure 504 for additional information and requirements regarding reconsideration.

A request for reconsideration is not a prerequisite to judicial review of this Decision. [SMC 20.10.260(3)]

**NOTICE of RIGHT of APPEAL**

This Decision is final and conclusive subject to the right of review before the State Shorelines Hearings Board in accordance with the procedures of Chapter 90.58 RCW, the Shoreline Management Act of 1971. See SMC 20.35.080, Chapter 90.58 RCW, and Washington Administrative Code regulations adopted pursuant thereto for further guidance regarding Hearings Board appeal procedures.

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."

---

<sup>21</sup> The official Parties of Record register is maintained by the City's Hearing Clerk.

**APPENDIX:**  
**SMC 25.07.050(2) Complete Text**  
**(as it existed prior to May 25, 2020)**

(2) Lake Sammamish. The following requirements apply to all new private docks, floats, and lifts on Lake Sammamish, including shared/joint-use facilities and beach club facilities.

(a) Each individual residential lot on Lake Sammamish shall be allowed: one residential dock, one float, two boat lifts, and two personal watercraft lifts. In lieu of the two boat lifts and two personal watercraft lifts, four personal watercraft lifts may be permitted.

(b) Contiguous lots using shared/joint-use docks shall be allowed one additional boat lift and one additional personal watercraft lift or two additional personal watercraft lifts in addition to the allowances noted above for an individual lot.

(c) Lots that provide shared/joint-use for more than nine residential homes shall be allowed one additional dock for service of existing legally established launch ramps and rails; provided, that the total area of overwater coverage does not exceed the maximum overwater area coverage allowed by this section.

(d) Maximum overwater area coverage for private docks on Lake Sammamish, excluding canopy coverage, shall not exceed:

(i) Four hundred eighty square feet for private residential docks serving one lot; or

(ii) Seven hundred square feet for private residential docks serving two to nine lots in a shared use agreement; or

(iii) One thousand square feet for private residential docks serving more than nine lots in a joint-use agreement.

(e) Docks shall be no wider than four feet, except an additional two feet of width can be allowed without a variance, for a property owner with a condition that qualifies for state disabled accommodations. The City can also allow without a variance, up to two feet of additional dock width limited to areas more than 30 feet waterward of the OHWM, if approved by other permitting agencies, such as the U.S. Army Corps of Engineers or the Washington Department of Fish and Wildlife. Otherwise docks shall not exceed four feet in width. The area of the float shall be counted as part of the overall dock area.

(f) Ells, fingers and deck platforms can be no closer than 30 feet waterward of the ordinary high water mark.

**HEARING EXAMINER DECISION**

**RE: SSDP2019-00378 (Eastman Shared/Joint-Use Dock)**

**June 17, 2020**

**Page 19 of 19**

(g) The first set of pilings for a dock shall be located no closer than 18 feet from the ordinary high water mark.

(h) Maximum Length of Private Docks. The maximum waterward extent of any new dock or other in-water/overwater moorage structure shall be no longer than 80 feet or the length needed to reach a depth of eight feet (measured from ordinary high water), whichever is greater. No dock shall be more than one-quarter the distance to the opposite shoreline.

(i) No boat lift shall be located closer than five feet from the side property line extended. New boat lifts installed between five and 15 feet of the side property line extended must be installed perpendicular to the shoreline.

(j) One boat canopy per residential lot is allowed; provided, that the canopy is made of translucent material. Canopies may be a maximum of 25 feet in length, 15 feet in width, and 10 feet at the highest point over ordinary high water.